

Washington State Auditor's Office
Whistleblower Investigation Report

**Office of Minority and Women's
Business Enterprises**

Report No. 1006595

Issue Date
October 18, 2011



WASHINGTON
BRIAN SONNTAG
STATE AUDITOR



**Washington State Auditor
Brian Sonntag**

October 18, 2011

Cathy Canorro, Acting Director
Office of Minority and Women's Business Enterprises

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. WB 10-032 at the Office of Minority and Women's Business Enterprises.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

Questions about this report should be directed to Investigator Cheri Elliott at (360) 725-5358 or Director of Special Investigations Jim Brittain at (360) 902-0372.

Sincerely,

BRIAN SONNTAG, CGFM
WASHINGTON STATE AUDITOR

BS:cle

cc: Governor Chris Gregoire
Melanie de Leon, Executive Director, Executive Ethics Board

Whistleblower Investigation Report

State of Washington Office of Minority and Women's Business Enterprises

ABOUT THE INVESTIGATION

We received an assertion stating an employee at the Office of Minority and Women's Business Enterprises was using his state computer and time for personal gain.

ASSERTION

A Management Analyst 4 at the Office of Minority and Women's Business Enterprise used his state computer for personal use.

RESULTS

We found reasonable cause to believe an improper governmental action occurred.

We received a copy of the subject's computer hard drive and email files from the Department. A review of the subject's hard drive found the subject used a state computer and state time to trade stocks online and for additional personal use. Specifically, we found:

- 456 visits to ETrade between August 2007 and September 2008.
- 90 visits to Nasdaq in February, April, August and September 2008 and July 2009.
- 77 visits to a personal banking site in September 2007 and April, July and September 2008.
- 35 visits to an educational site in September 2007 and April and July 2008.

In addition, we found 646 files related to stock trading saved on the computer hard drive.

We found 11 emails with non-work-related content: four regarding a real estate transaction, three of which included attachments (a counteroffer requiring the subject's signature, a financial document bearing the subject's spouse's name and a password-protected "legal" document sent to the subject's work email address from his spouse).

The remaining seven e-mails included stock and trading information: three were between the subject and an employee from another state agency discussing stocks and one included an attachment of a "watch list" created by the subject naming 47 stocks and including prices and margins. Three emails were between the subject and a banking executive discussing the potential for the subject to invest with a bank group. One e-mail was sent by the subject to two people and included a nine page attachment.

The subject stated in the e-mail "take a look at the info and tell me how you think we should proceed."

We interviewed several witnesses all of whom stated they had seen the subject trading stocks using his desktop and that it had been going on for years and continued after the subject was reprimanded by management.

The subject, through his attorney, declined our request for an interview.

AGENCY'S PLAN OF RESOLUTION

OMWBE will immediately take steps to initiate the following resolution:

- 1. Require all OMWBE supervisors to meet with staff and review the agency's Internet, Computer Software and Electronic Email Usage and Standards of Ethical Conduct policies and require all OMWBE employees to sign that they have read, understand and agree to comply with each of these policies. This was last done in 2009.*
- 2. Continue to periodically monitor all employees' work computer and email to ensure violations are no longer occurring.*
- 3. Continue to post a message on each employee's computer prohibiting personal usage of state computers.*
- 4. By October 17, 2011:*
 - Determine which activities as identified in the Auditor's draft report were work related.*
 - As part of an internal investigation, present the allegations to the subject and allow him to respond to them.*
 - After completing the investigation, determine the appropriate level of disciplinary action, if any, to be taken.*
 - Notify the Auditor's Office of any disciplinary action taken.*

STATE AUDITOR'S OFFICE REMARKS

We thank Agency officials and personnel for their assistance and cooperation during the investigation.

Whistleblower Investigation Criteria

State of Washington Office of Minority and Women's Business Enterprises

We came to our determination in this investigation by evaluating the facts against the criteria below:

RCW 42.52.160, Use of person, money, or property for private gain, states in part:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

WAC 292-110-010, Use of state resources, states in part:

(2) The following are permitted uses:

(d) A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

(i) There is little or no cost to the state;

(ii) Any use is brief;

(iii) Any use occurs infrequently;

(iv) The use does not interfere with the performance of any officer's or employee's official duties . . .

(5) Prohibited uses.

(a) Any use for the purpose of conducting an outside business or private employment.

e) Any use related to conduct that is prohibited by a federal or state law or rule, or a state agency policy . . .

Contacts

Washington State Auditor

Brian Sonntag, CGFM

brian.sonntag@sao.wa.gov

(360) 902-0360

Director of Special Investigations

Jim Brittain, CPA

jim.brittain@sao.wa.gov

(360) 902-0372

Deputy Director of Special Investigations

Kim Hurley, CPA

kim.hurley@sao.wa.gov

(360) 725-5352

Special Investigations Coordinator

Julie Cooper

julie.cooper@sao.wa.gov

(360) 902-0377

Director of Communications

Mindy Chambers

mindy.chambers@sao.wa.gov

(360) 902-0091

Public Records Officer

Mary Leider

mary.leider@sao.wa.gov

(360) 725-5617

Main phone number

(360) 902-0370

Toll-free hotline for reporting government waste, efficiency

(866) 902-3900

Website

www.sao.wa.gov

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